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UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

KENNETH ALAN SHIFFER,

Petitioner

v.

BEN VARNER, et al.,

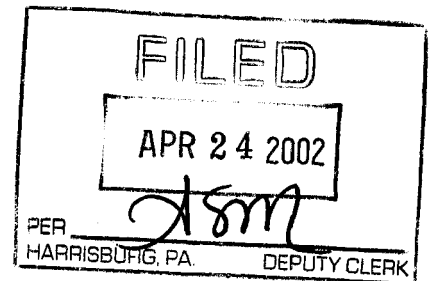
Respondents

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CIVIL NO. 1:00-CV-1829

(Judge Caldwell)

O R D E R

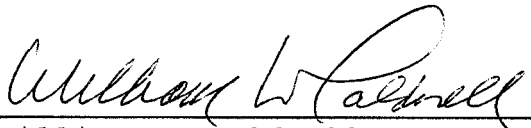


THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

Before us is Kenneth Alan Shiffer's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his 1988 conviction for second degree murder. Shiffer makes several arguments, including that his trial counsel was ineffective for failing to allow Shiffer to testify on his own behalf. Before the state courts, trial counsel testified that he had advised Shiffer against testifying because he believed if Shiffer did so, Shiffer's prior conviction for assault and battery would be elicited. Shiffer contends that absent this advice, he would have taken the stand. He maintains that trial counsel should have filed a motion in limine to exclude evidence of the prior conviction at trial.

On the record before us, it is unclear whether Shiffer presented this argument to the state courts. For this reason, we will order the government to file, with the Clerk of Court, the state court documents pertaining to Petitioner's argument that trial counsel's failure to file a motion in limine affected his decision to testify on his own behalf.

Accordingly, this 24th day of April, 2002, it is Ordered that the government shall file, with the Clerk of Court, within twenty days of the date of this Order, Petitioner's PCRA petition, his PCRA appellate briefs, and the portion or portions of the state record bearing on Petitioner's claim that trial counsel's failure to file a motion in limine impeded his constitutional right to testify on his own behalf.

  
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William W. Caldwell  
United States District Judge